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## Report to Planning & Zoning Commission

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Clay County, Missouri

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**Case Number**                      **May 14-118CUP**

**Case Type**                        **Conditional Use Permit**

**Project Name**                    **Highway Department Communications Tower**

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**Applicant/Owner**                Clay County, Missouri  
One Courthouse Square  
Liberty, MO 64068

**Request**                            **Conditional Use Permit** to erect a 240-foot tall communications tower

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Application Submittal              2014-04-07

Public Notice Published            2014-04-17

Neighbor Letters Sent              2014-04-17

Report Date                          2014-04-30

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**REPORT AUTHOR(S)**              Matt Tapp, Director  
Debbie Viviano, Planner

**Recommendation**                **APPROVED with conditions**



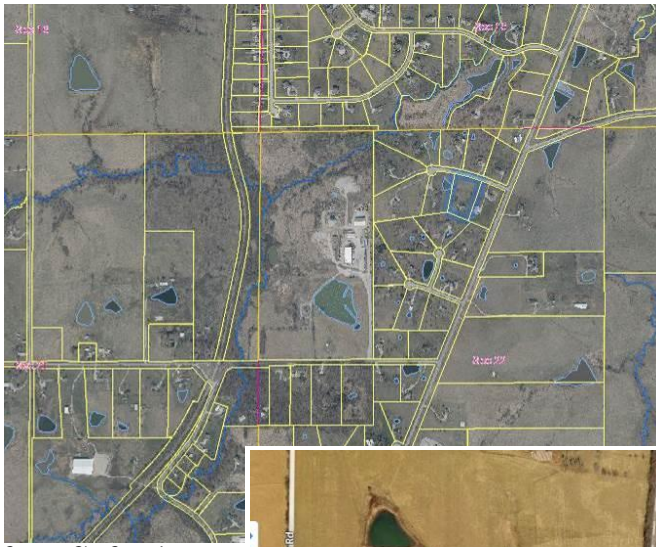
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## General Information

Site Location:	16616 NE 116 <sup>th</sup> St Section 22   Township 52   Range 31
Site Size:	80± acres
Existing Landuse & Zoning:	Agricultural District (AG)
Zoning/Platting History:	None
Surrounding Landuse & Zoning:	North – Holmes Creek Hills, Agricultural (AG) zoned land, City of Kearney (~ 1 mile) East – R-1B zoned land (Flanery property) South – Chandler Baptist Church (AG), <u>Country Hills</u> (R-1), <u>Chandler Estates</u> (AG), City of Liberty (~ ½ mile) West – <u>Vassar Acres</u> (R-1A), Agricultural (AG) zoned land

## Current Conditions:



Courtesy Clay Count Assessor,  
GIS/Mapping



Courtesy Microsoft® Bing™



# Report to Planning & Zoning Commission

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## Assessment

Clay County, Missouri is requesting approval of a **Conditional Use Permit (CUP)** to erect a communications tower at approximately 16616 NE 116<sup>th</sup> Street. The property is approximately 80+ acres in size and zoned Agricultural District (AG).

This request is to locate a 240-foot tall lattice style communications tower in order to provide microwave broadband internet and wireless communications services for county employees.

### 2008 Comprehensive Plan Considerations

The Comprehensive Plan ("Plan") indicates that the subject property is located in the **URBAN SERVICES TIER**, as well as the 1-Mile Urban Coordination Sub-Tier.

The following tables illustrate two (2) of the most pertinent policies shaped by the Plan. The first (1<sup>st</sup>) table shows the landuse tiers and corresponding guidelines, and the second (2<sup>nd</sup>) explains the exceptions to the 20-acre minimum lot size policy directed by the Plan.

Table 4.2 - Land Use Planning Tiers – Presented on the Planning Tier Map			
	Natural Resources Tier* (Yellow)	Rural Low-Density Tier* (Green)	Urban Services Tier* (Salmon)
<b>Intent</b>	Support continued agricultural uses in areas beyond near- and long-term urban service extensions.	To accommodate low density rural uses in areas located beyond anticipated city annexation areas.	To promote urban development compatible with the long range growth plans of adjoining cities.
<b>Primary Uses</b>	Agricultural-related uses, natural resources	Agricultural crop lands, livestock grazing, woodlands, grasslands, rural residences	Urban density residential and non-residential
<b>Residential Uses</b>	Rural Density: 1 dwelling unit per 20+ acres.	Rural Density; Rural Residential Density: low-density rural residential development: 1-dwelling unit per 20+ acres, or 1-farmstead dwelling on 5+ acres; Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre.	Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre. Urban Density: development on municipal-level services: greater than 4-units per acre.  20-acre minimum for agricultural and rural residential uses until such time as urban development occurs.
<b>Non-Residential Uses</b>	Farm service related, recreation	Farm service related, recreation	Recreation, limited commercial and industrial consistent with the long range growth plans of adjoining cities.
<b>Minimum Sanitary Sewer Provisions</b>	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	Municipal Wastewater Treatment Plant connection for Suburban Density or greater. <sup>(3)</sup>
<b>Zoning Districts</b>	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density, such as on 3-acre lots).	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density such as on 3-acre lots).	Open Space & Parks; and residential districts through general industrial (not including Res. Low Density such as on 3-acre lots).  AG, Agricultural zoning is appropriate until full range of urban services available.

<sup>(3)</sup> On-site septic allowed for agricultural uses only.

\* The **Planning Tier Map** notes a special designation of areas within one mile of each city: "1-Mile Urban Coordination Sub-Tier" where advise-and-consent should be solicited from the designated city. The applicant will be required to submit a letter from the city of jurisdiction concerning the proposal. The Clay County Planning and Zoning Commission may consider the letter as a non binding city recommendation for Clay County to consider in their deliberations.



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Table 4.3 – Option B for Land Use Tier Implementation: Transition Policy Procedures			
	Natural Resources Tier* (Yellow)	Rural Low-Density Tier (Green)	Urban Services Tier (Salmon)
Intent	Exceptions from 20-acre minimum lotsize in Ag-districts / phasing in of new regulations		
Density Exceptions for Legal Lots of Record as of the date of Revision of the Land Development Code	Subdivision of land to 5+acre lots, provided that 50% of the subdivided parcel is preserved, such as in an agriculture deed restriction.	Or, subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved.	Subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved, and—for plats within one mile of a city—the city's issues have been addressed.
Other Exceptions	Farmstead** dwellings allowed on 5+acre parcels.		City within one mile may review and recommend other exceptions granted in other tiers, provided a "shadow plat" at urban density is approved.

\* The Natural Resources Tier includes an "Urban Services Transition Sub-Tier" area along M-92 and C-Highways that extends where urban development is influenced by the urban highway; yet remains within the Natural Resources Tier designation for purposes of enhanced environmental review and scrutiny.

\*\* A "Farmstead Dwelling" is the original residence built and initially occupied by a farm family, regardless of whether the current household occupant is associated with farming.

The City of Kearney responded in an email dated 04/30/2014 that they did not have an "issue with construction of a proposed tower on County property". City of Liberty was sent a hard copy letter through the mail dated 04/17/2014 and has not responded as of this writing.

## Character of the General Neighborhood

The Holmes Creek Hills subdivision and the City of Kearney (~ 1 mile) are to the north. Flanery R-1B zoned land is to the East. Chandler Baptist Church (AG), Country Hills (R-1), Chandler Estates (AG) and City of Liberty (~ ½ mile) are to the south, and Vassar Acres (R-1A) is to the west. Agricultural (AG) zoned land to the east and south of the property [See Attachment B].

## Federal Aviation Administration (FAA) Considerations

The runway for Midwest National Air Center (MNAC) is approximately 5.01 miles to the east-northeast. The applicant does need to pursue FAA notification of construction or alternation (Form 7460), as the subject request falls within the required notification area from a FAA airport/heliport.

Figure 1 to the right illustrates the following:

- Subject tower location – red star
- FAA 7460 Notification Areas – orange-colored rings
  - Larger to east – Midwest National Air Center (MNAC)
  - Smaller to lower southwest – Roosterville Airport

## Code Considerations

The Conditional Use Permit (CUP) application was properly noticed in the Kearney Courier on 04/17/2014. Adjacent property owners within the statutory law mandated 1,000 foot distance were notified by means of a certified letter sent 04/17/2014.

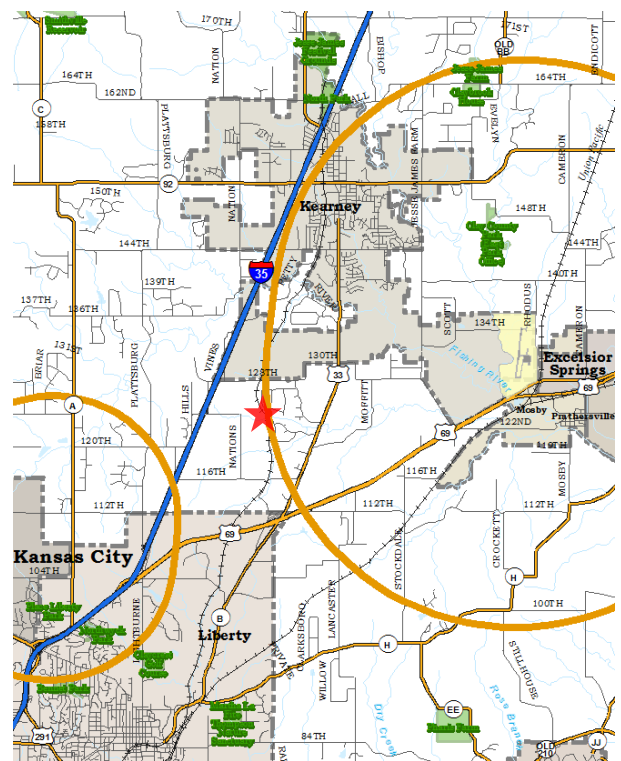


Figure 1: FAA Notification Areas





## Report to Planning & Zoning Commission

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The subject request for a communications tower falls within a "Commercial Telecommunications Facility" is handled under multiple portions of the 2011 Clay County Land Development Code ("LDC"). The use table inside Section 151-6.1 includes a "Telecommunications Facility (Commercial)" designation requiring approval of a Conditional Use Permit ("CUP") in the Agricultural ("AG"), Residential Rural (R-1), Residential Ranchette (R-5), Residential Urban (R-U), Commercial Services (C-3), Limited Industrial (I-1) and General Industrial (I-2) zoning districts. As such, the subject request must meet all of the approval criteria for a CUP in Section 151-3.10 (A) (13) detailed below:

- A) The proposed use complies with the intent of the Comprehensive Plan and general provisions of the Land Development Code, modified for the specific use request.
- B) The proposed use in its proposed location will not have a substantial adverse impact on the public health, safety or general welfare.
- C) The proposed use will not cause substantial injury to the value of other property in the vicinity.
- D) Adequate access routes will be provided and designed to prevent traffic hazards and to minimize traffic congestion in public streets.
- E) Adequate public safety, transportation and utility facilities/services will be available to service the subject property while maintaining adequate levels of service for existing development, and
- F) The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (i.e., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

Under Section 151-6.2 (G), the LDC provides specific use standards for commercial antennas/towers which apply to this request are summarized below:

1) Federal Requirements

*STAFF RESPONSE: The applicant has received a "Determination of no hazard to air navigation" notice from the FAA dated 01/27/2014.*

- 2) Abandoned Towers – The LDC requires abandoned towers be removed at the owner's expense, and a bond or letter of credit be maintained for this purpose in the County Clerk's Office. The amount shall be equal to a demolition bid of the tower structure, updated every 5 years.
- 3) Inspection – The tower shall be inspected every 24 months by a registered structural engineer. A copy of the inspection report shall be provided to the County.
- 4) Accessory Equipment Storage – mobile equipment or equipment not used in direct support of a tower facility shall not be stored or parked on the site.

*STAFF RESPONSE: No unrelated accessory equipment/storage is requested in relationship to this application.*

- 5) Fences – Towers shall be enclosed by security fencing not less than 6 feet in height with anti-climbing device, and have a locked gate. Security signs shall be posted on the fence.

*STAFF RESPONSE: supplied drawings show 6-foot tall chain-link fence around full perimeter of facility site.*



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- 6) Design and Construction – The LDC requires a building permit be issued for construction of a tower, and plans and specifications be submitted from a registered professional engineer.
- 7) Lighting – If lighting is required, the County Commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

STAFF RESPONSE: *No additional lighting is required in relationship to this request.*

- 8) Landscaping – The tower compound shall be landscaped with a buffer of plant materials that effectively screens the compound from adjacent property.

STAFF RESPONSE: *Applicant plans to install landscaping around the East, South, and West sides of the compound.*

- 9) Co-locations – The LDC requires tower installations above 120 feet in height provide a minimum capacity for three (3) total users that includes Clay County.

STAFF RESPONSE: *See elevation drawing on page A-3 of Attachment C that shows the proposed tower has the ability to provide space for 4 total users.*

- 10) Separation from Existing Towers – A lattice tower such as this subject request must be at least 5,000 feet from any existing lattice or guyed-wire tower, and at least 1,500 feet from any existing monopole tower.

STAFF RESPONSE: *The proposed tower is approximately 630 feet northwest of the existing Clay County Highway Department communications tower which is designated for demolition when the new tower is erected and operational. The subject request is also approximately 3,880 feet north of the existing water stand pipe inside the Liberty Village mobile home park within the city limits of Liberty.*

- 11) Height and setback – No tower shall exceed 300 total feet above ground level, and must be setback a minimum distance equal to 100% of the height of the tower from all adjoining property lines.

STAFF RESPONSE: *This tower is proposed to be 240 feet in height and is set to be located approximately 665 feet from the south property line and 470 feet from the west property line.*

Section 151-5.5 of the LDC sets additional height hazard limitations for tall structures within the Airport Overlay Zoning District ("A-O"). The subject request falls approximately within the 1,127 feet above mean sea level (AMSL) max height level of the "Airport Conical Zones" (ACZ). The submittal as proposed reaches close to 1,123.1 AMSL (240' structure height + 883.1' ground elevation), thereby meeting or exceeding the additional standards inside A-O.

### **Outside Agency Review**

The Clay County Health Department has given preliminary and final approval. Clay County Public Water Supply District #6 has not responded as of this writing. The Kearney Fire Protection District serves this property.

The Clay County Highway Department noted that the "location of [the] wireless tower will not affect the roads/transportation system", and that the "closest roadway is NE 116<sup>th</sup> Street, the tower has been located far enough away that in case of ... failure, the tower structure would not penetrate the road ROW".



# Report to Planning & Zoning Commission

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## Findings

No opposition has been received as of the date of this staff report.

## Recommendations

Staff recommends the request for the **Conditional Use Permit** to erect a 240-foot tall lattice Commercial Telecommunications Facility be **approved**, with the following conditions as shown on Exhibit A:

### Exhibit A

1. The CUP shall be based on a time frame of fifteen (15) years.
2. Landscaping installed along the East, South, and West sides of the compound prior to issuance of building permit.
3. Tower design shall be reviewed at the time a building permit is issued, and at minimum shall include the following elements:
  - a. Maximum height for this communications tower shall be 240 feet.
  - b. The lattice tower shall be set back a minimum distance of 240 feet from all adjoining property lines.
  - c. Construction plans and specification drawings be submitted from a registered professional engineer in the State of Missouri.
4. Every twenty-four (24) months the tower must be inspected by a structural engineer registered in the State of Missouri who is regularly involved in maintenance, inspection and erection of communications towers.
5. If the tower is damaged or destroyed, the property owners will have 120 days to repair or dismantle the facility.
6. No hazardous materials may be stored on the property.





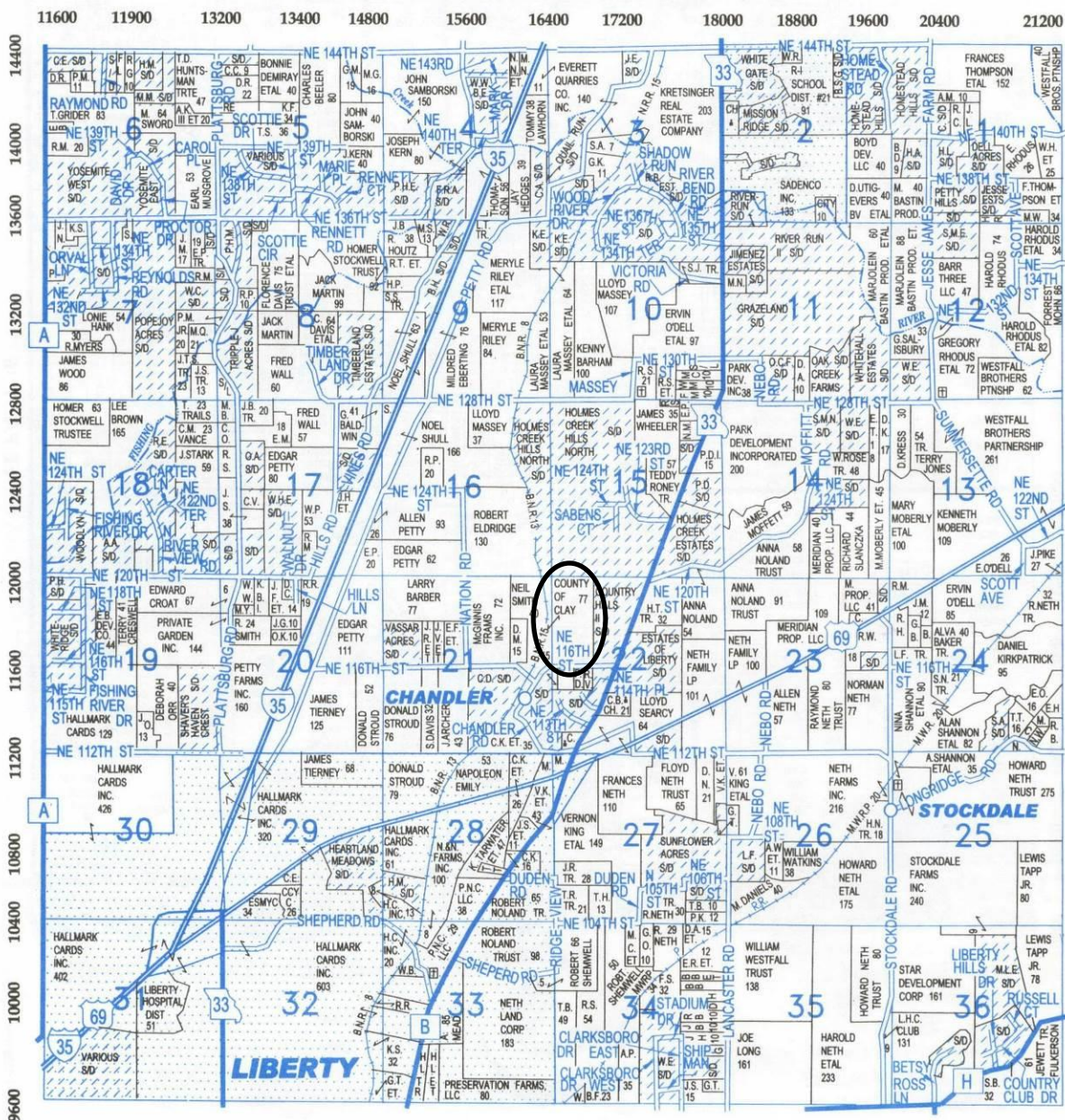
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## Attachments

### May 14-118CUP – Clay County Communications Tower Attachment A – Vicinity Map

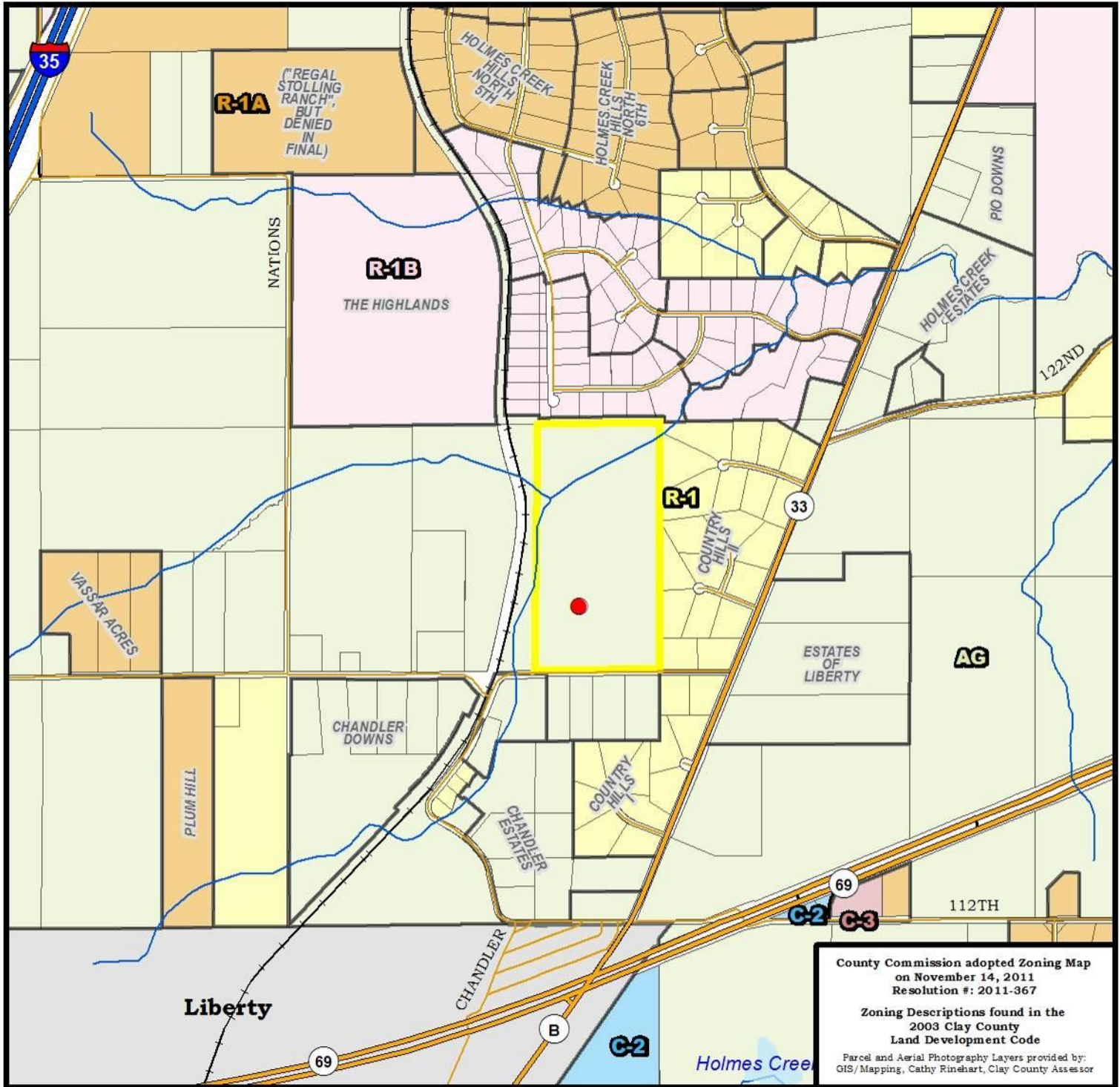
#### TOWNSHIP 52N • RANGE 31W





# April 14-118CUP – Clay County Highway Department Tower

## Attachment B - Existing Conditions Map



**Planning & Zoning Department**



1 inch = 1,500 feet  
1 inch = 0.28 miles

### LEGEND

- Location
- Property Line
- ~ Streams (EPA)
- Railroads
- Roads
  - Interstates
  - State Highways
  - Local Roads
  - Highway Ramps
- Subdivisions
- 2014 City Limits
- Parks
- County Boundaries

- Overlay Districts
  - CD (Conservation District)
  - PUD (Planned Unit Development)

- Zoning Districts**
  - AG
  - R-1
  - R-1A/R-5
  - R-1B/RU
  - R-3
  - C-1
  - C-2
  - C-3
  - I-1
  - I-2
  - OP







